

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE MICROSOFT XBOX 360
SCRATCHED DISC LITIGATION

Master Cause No. C07-1121-JCC

**ORDER GRANTING DEFENDANT'S
MOTION TO SEAL CERTAIN
CONFIDENTIAL INFORMATION**

THIS DOCUMENT RELATES TO:
ALL ACTIONS

This matter comes before the Court on Defendant Microsoft Corporation's Motion to Seal Certain Confidential Information (Dkt. No. 88) filed in support of its opposition brief to Plaintiffs' Motion for Class Certification and for Application of Washington Law. Plaintiffs have filed no response to the motion to seal. The Court has carefully considered the motion, the documents proposed to be sealed, and the balance of pertinent materials in the case file. The Court finds and rules as follows.

Pursuant to the Local Rules:

There is a strong presumption of public access to the court's files. With regard to dispositive motions, this presumption may be overcome only on a compelling

1 showing that the public's right of access is outweighed by the interests of the
2 public and the parties in protecting the court's files from public review. With
3 regard to nondispositive motions, this presumption may be overcome by a
4 showing of good cause under Rule 26(c).

5 Local Rules W.D. Wash. CR 5(g)(2). Only rarely will the court permit entire memoranda to be
6 filed under seal. Local Rules W.D. Wash. CR 5(g)(3). "If possible, a party should protect
7 sensitive information by redacting documents rather than seeking to file them under seal." *Id.* In
8 addition, the motion must provide a specific description of documents or categories of
9 documents the party seeks to protect and a "clear statement of the facts justifying sealing and
10 overcoming the strong presumption in favor of public access." Local Rules W.D. Wash. CR
11 5(g)(4). The facts supporting the motion must be provided by declaration or affidavit. *Id.*

12 In the instant motion, Defendant asks that the Court seal Exhibits 1 through 5 of the
13 Declaration of Hiroo Umeno and Exhibits G and H of the Declaration of Fred B. Burnside, all
14 filed in support of Defendant's opposition brief to Plaintiffs' Motion for Class Certification and
15 For Application of Washington Law. These exhibits contain Defendant's confidential business
16 information regarding the Xbox 360 optical disk drive's technical specifications and other
17 attributes. (Mot. 2 (Dkt. No. 88).) Based on Defendant's motion and the Umeno Declaration
18 (Dkt. No. 80), which is incorporated by reference into the motion, the Court is persuaded that
19 these materials contain proprietary information that would cause Defendant competitive harm if
20 disclosed. Such concerns overcome the strong presumption of public access to court records.
21 Accordingly, the Court GRANTS the motion to seal. Accordingly, the Clerk is directed to
22 maintain under seal the following documents in the record:
23

24 • Exhibits 1-5 to the Declaration of Hiroo Umeno in Support of Microsoft
25 Corporation's Opposition to Plaintiffs' Motion for Class Certification; and
26

1 • Exhibits G and H to the Declaration of Fred B. Burnside in Opposition to
2 Plaintiffs' Motion for Class Certification.

3 It is so ordered.

4 DATED this 28th day of April, 2009.

5
6
7
8 
9 _____
 John C. Coughenour
 UNITED STATES DISTRICT JUDGE